

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD ALAN McANULTY,

Plaintiff,

v.

SUPT. VINCENT MOONEY, et al.,

Defendants.

CIVIL ACTION NO. 3:13-CV-03104

(JUDGE CAPUTO)

(MAGISTRATE JUDGE
MEHALCHICK)

ORDER

NOW, this 4th day of January, 2016, **IT IS HEREBY ORDERED** that Magistrate Judge Mehalchick's Report and Recommendation (Doc. 51) is **ADOPTED in part and REJECTED in part** as follows:

- (1) The DOC Defendants' motion to dismiss for failure to state a claim (Doc. 24) is **GRANTED**.
- (2) Defendant Daya's motion to dismiss for failure to state a claim (Doc. 30) is **GRANTED**.
- (3) Defendants Landsberg, Popick, and Wexford Health Network's motion to dismiss for failure to state a claim (Doc. 37) will be **GRANTED in part and DENIED in part** as follows:
 - (A) Defendants Landsberg and Popick's motion to dismiss Plaintiff's deliberate indifference claim regarding their failure to maintain updated medical records on Plaintiff and their failure to order proper follow-up appointments to evaluate Plaintiff's condition is **GRANTED**.
 - (B) Defendants Landsberg and Popick's motion to dismiss Plaintiff's deliberate indifference claim regarding their failure to reorder required medications for Plaintiff is **DENIED**.
 - (C) All claims against Defendant Wexford Health Network are **DISMISSED**.
- (4) Defendants Wexford Health Network, Landsberg, and Popick's motion to

dismiss for failure to prosecute (Doc. 47) is **DENIED**.

- (5) Plaintiff shall have twenty-one (21) days from the date of entry of this Order to amend his complaint. Otherwise, the claims will be dismissed with prejudice.
- (6) Plaintiff's Motion to Appoint Counsel (Doc. 54) is **DENIED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge